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STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO MARCH 28 2019
BY: [Signature] ANALYST

8
9 **BEFORE THE**
10 **MEDICAL BOARD OF CALIFORNIA**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. 800-2017-038105

14 **RONALD ALAN POPPER, M.D.**
2230 Lynn Road, Suite 101
15 Thousand Oaks, CA 91360

A C C U S A T I O N

16 **Physician's and Surgeon's Certificate**
17 **No. A 35734,**

Respondent.

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20 Complainant alleges:

21 **PARTIES**

22 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official
23 capacity as the Executive Director of the Medical Board of California, Department of Consumer
24 Affairs (Board).

25 2. On or about August 11, 1980, the Medical Board issued Physician's and Surgeon's
26 Certificate Number A 35734 to Ronald Alan Popper, M.D. (Respondent). The Physician's and
27 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
28 herein and will expire on October 31, 2019, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2227 of the Code states:

“(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:

“(1) Have his or her license revoked upon order of the board.

“(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.

“(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.

“(4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.

“(5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.

“(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the board and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1.”

5. Section 2234 of the Code, states:

“The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

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1 “...

2 “(b) Gross negligence.

3 “....”

4 **CAUSE FOR DISCIPLINE**

5 **(Gross Negligence)**

6 6. Respondent is subject to disciplinary action under Code section 2234, subdivision (b),
7 in that he committed gross negligence during his care, treatment and management of Patient 1¹
8 from May 2012 until her death on June 2, 2013, of acute polypharmacy intoxication. The
9 circumstances are as follows:

10 7. Patient 1 initially treated with Respondent, a specialist in sleep medicine, in January
11 2011, for chronic insomnia. At the time, Patient 1 was 40 years old. Her other medical
12 conditions and complaints included: fibromyalgia and chronic pain due to fibromyalgia, restless
13 limb/leg syndrome (RLS), and bipolar disorder. At her initial visit, Patient 1 reported being
14 prescribed Ambien² for insomnia, Norco³ and Fentanyl⁴ for pain and Seroquel,⁵ Lexapro⁶ and
15 Protonix.⁷ Respondent treated Patient 1 for insomnia recommending sleep hygiene, weight loss,
16 comprehensive blood work and a sleep study.

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19 ¹ In order to protect the patient's privacy, the patient is identified in this charging pleading
20 as Patient 1. The true name of the referenced patient is known to Respondent and will be
disclosed to him upon his timely Request for Discovery.

21 ² Ambien, the brand name for Zolpidem Tartrate, is a sedative hypnotic and a Schedule IV
22 controlled substance pursuant to Health and Safety Code section 11057, subdivision (d)(32).

23 ³ Norco is the brand name for Hydrocodone Bitartrate and Acetaminophen. Hydrocodone
24 is a Schedule II controlled substance pursuant to Health and Safety Code section 11055,
25 subdivision (b)(1)(I)(i).

26 ⁴ Fentanyl is an opioid analgesic used as the citrate salt in the induction and maintenance
27 of anesthesia, as an adjunct to anesthesia, in combination with droperidol (or a similar agent) to
28 induce neuroleptanalgesia, and in the management of chronic severe pain. It is 100-fold more
potent than morphine and is a Schedule II controlled substance pursuant to Health and Safety
Code section 11055, subdivision (b)(1)(I)(i).

⁵ Seroquel, brand name for Quetiapine, is an anti-psychotic medication used to treat mood
disorders, such as bipolar disorder and schizophrenia. Seroquel is also used to treat insomnia.

⁶ Lexapro, brand name for Escitalopram, is a selective serotonin reuptake inhibitor (SSRI)
and is used to treat depression and anxiety.

⁷ Protonix, brand name for Pantoprazole, is used to treat certain stomach and esophagus
problems, such as acid reflux.

1 8. At Patient 1's next visit, Respondent started her on Mirapex⁸ for the treatment of
2 RLS, which can cause insomnia.

3 9. Patient 1 returned to Respondent on March 21, 2011. Patient 1 reported that her
4 insomnia was not improved and Respondent referred her to cognitive behavioral therapy for
5 insomnia. Respondent also substituted Ambien with Lorezepam⁹ for her insomnia due to her
6 reports of associated anxiety.

7 10. Respondent next saw Patient 1 on June 21, 2011. Her insomnia and anxiety had not
8 improved. Respondent restarted her on Ambien, in addition to the Lorezepam. Patient 1 had not
9 participated in any cognitive behavior therapy and was again instructed to do so.

10 11. Patient 1 did not return to Respondent until March 20, 2012. In the interim, she
11 reported having a gastric resection. She had not followed up with cognitive behavioral therapy
12 for insomnia and her medication list then showed her as being prescribed: Restoril,¹⁰ Ambien,
13 Savella,¹¹ Seroquel and Norco. Respondent discontinued the Restoril and started Patient 1 on
14 Clonazepam.¹²

15 12. Respondent saw Patient 1 again on April 24, 2012. She reported that her anxiety,
16 depression and fatigue were worse. Respondent continued her on Clonazepam and started her on
17 Horizant.¹³ Patient 1 continued to take Norco and Seroquel.

18 13. On May 24, 2012, Patient 1 returned to Respondent. At that time, she was taking
19 Ambien, in addition to Norco, Clonazepam and Seroquel. Respondent stopped prescribing
20 Horizant, due to minimal effect, and a prescription was placed for Xyrem.¹⁴

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23 ⁸ Mirapex, brand name for Pramipexole, is used to treat Parkinson's disease and RLS.

24 ⁹ Lorazepam is a benzodiazepine and a Schedule IV controlled substance pursuant to
25 Health and Safety Code section 11057, subdivision (d)(9).

26 ¹⁰ Restoril, brand name for Temazepam, is a benzodiazepine and is a Schedule IV
27 controlled substance pursuant to Health and Safety Code section 11057, subdivision (d)(29).

28 ¹¹ Savella, a selective serotonin and norepinephrine reuptake inhibitor (SNRI) is used to
treat fibromyalgia.

¹² Clonazepam, generic for Klonopin, is a benzodiazepine and a Schedule IV controlled
substance pursuant to Health and Safety Code section 11057, subdivision (d)(7).

¹³ Horizant is used to treat RLS.

¹⁴ Xyrem, brand name for Sodium Oxybate, is used to treat narcolepsy and is a Schedule
III controlled substance.

1 14. Patient 1's health insurance company denied Respondent's request for authorization
2 for the prescription of Xyrem for the "off label" use of insomnia. Respondent then submitted an
3 appeal and the prescription was approved. Respondent claims Patient 1 was extensively
4 counseled regarding the risks of Xyrem, in particular in combination with her psychotropic,
5 hypnotic and narcotic medications.

6 15. In a letter dated August 7, 2012, from the pharmacy distributing Xyrem to
7 Respondent, the pharmacy raised concerns that Patient 1 was also taking Ambien, which is
8 contraindicated, and Norco, Seroquel and Klonopin (Clonazepam), in conjunction with Xyrem.

9 16. Patient 1 continued on Norco, Clonazepam, Seroquel and Xyrem until December 12,
10 2012, when Patient 1 switched insurance companies and her new carrier denied her prescription
11 for Xyrem. Again, Respondent appealed the denial and the prescription was subsequently
12 approved.

13 17. Respondent continued to treat and prescribe to Patient 1 up until her final visit on
14 May 14, 2013. At that time, Patient 1 was taking Xyrem, Clonazepam, Norco and Seroquel.
15 Patient 1 reported sleeping through the night, but that she was fatigued and depressed.

16 18. On June 2, 2013, Patient 1 passed away from acute polypharmacy intoxication (drug
17 overdose) with Norco and Ambien listed as the cause of death.

18 19. On June 12, 2013, Respondent prescribed Patient 1 Xyrem.

19 20. According to the standard of care within the medical community, prescribing Xyrem
20 is contraindicated in a patient who is also taking sedative hypnotics/central nervous system
21 depressants.

22 21. Respondent committed an extreme departure of care, and, thus, gross negligence,
23 when he prescribed Xyrem to Patient 1 who was taking numerous other sedative hypnotics at the
24 time, including Clonazepam, Seroquel, and Norco.

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4. Taking such other and further action as deemed necessary and proper.


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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